

## **RULES OF PRACTICE**

Magistrate Judge  
Viktor V. Pohorelsky  
Brooklyn Courthouse  
Telephone: 718-613-2400  
Fax: Permitted by Express Authorization Only  
Contact: Joan Newton

### **Electronic Case Filing (ECF) Requirements:**

On June 22, 2004, the Board of Judges of the Eastern District of New York issued an Administrative Order requiring that "Beginning on August 2, 2004, electronic case filing will be mandatory for all civil cases other than pro se cases and for all criminal cases." A copy of that order is available on the District's web page at [www.nyed.uscourts.gov](http://www.nyed.uscourts.gov).

### **FAILURE TO COMPLY WITH THE ECF REQUIREMENTS WILL RESULT IN THE REJECTION OF PAPERS THAT ARE NOT ELECTRONICALLY FILED.**

Attorneys will receive decisions and notifications from the court electronically. Accordingly, attorneys are responsible for keeping their e-mail addresses current with the Clerk's Office. Please go the [www.nyed.uscourts.gov](http://www.nyed.uscourts.gov) web page for additional information about electronic case filing and training, or contact Terry Vaughn in Brooklyn at (718) 613-2330.

**Unless otherwise ordered by the judge in a specific case, matters before the judge shall be conducted in accordance with the following practices:**

1. *Motions Returnable:* On any day.

2. *Communications With Chambers*

A. *Letters.* Except as otherwise provided below, communications with chambers shall be by letter, filed via the electronic case filing (ECF) system. Correspondence between counsel shall not be filed via ECF or otherwise submitted to the court.

B. *Docketing, Scheduling and Calendar Matters.* For docketing, scheduling and calendar matters, call the contact listed above between the hours of 9:30 a.m. and 4:30 p.m.

C. *Faxes.* Faxes to chambers are not permitted unless prior authorization is obtained.

D. *Telephone Calls.* In addition to Paragraph 1(B) above, telephone calls to chambers are permitted. For non-docketing, scheduling or calendar matters, call chambers at the number listed above.

E. *Requests for Adjournments or Extensions of Time.* All requests for adjournments or extensions of time must state (1) the original date, (2) the number of previous requests for adjournment or extension, and (3) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling order must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.

### 3. *Motions*

A. *Judge to Whom Motions Are to Be Made.* Unless otherwise specifically ordered, all non-dispositive pretrial motions, including discovery motions, are to be made to the magistrate judge. All dispositive motions, including summary judgment motions and motions to amend pleadings, are to be made to the district judge unless the parties have consented in writing to determination by the magistrate judge in accordance with 28 U.S.C. § 636 (c)(1).

B. *Discovery Motions.* For discovery motions, follow Local Civil Rules 37.3 and 6.4. Discovery motions are to be made by letter, and submissions are limited to the movant's letter and the letters in opposition; replies will be rejected. No pre-motion conference with the court is required before making discovery motions. For motions other than discovery motions, see "Pre-Motion Conferences in Civil Cases" below.

C. *Pre-Motion Conferences in Civil Cases.* For motions to amend pleadings or to bring third-party actions, a pre-motion conference is required. A party seeking to make such a motion shall request such a conference by filing a three-page letter via ECF setting forth the reasons for the motion and shall attach a copy of the proposed amended pleading or third-party complaint. Within five business days thereafter, any party that wishes to oppose the motion shall file a three-page letter via ECF. If no opposition is submitted the court may grant the motion without further proceedings. For dispositive motions in cases in which the parties have not consented in writing to determination by the magistrate judge in accordance with 28 U.S.C. § 636 (c)(1), the parties shall follow the rules of practice of the district judge to whom the case is assigned. No pre-motion conference is required for discovery motions, for non-dispositive motions other than those identified above, and for dispositive motions in cases in which the parties have consented in writing to determination by the magistrate judge in accordance with 28 U.S.C. § 636 (c)(1).

C. *Courtesy Copies.* Courtesy copies of papers filed via ECF are not required unless the papers, including exhibits and other attachments, exceed ten pages in length. For filings exceeding ten pages, courtesy copies, marked as such, shall be submitted to the clerk of court for delivery to chambers, or shall be mailed directly to chambers.

D. *Memoranda of Law.* Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents.

E. *Filing of Motion Papers.* For all motions addressed to the magistrate judge, motion papers shall be filed via ECF by each party when they are due.

F. *Oral Argument on Motions.* Parties may request oral argument by letter at the time their moving or opposing or reply papers are filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

#### 4. *Pretrial Procedures*

A. Joint pretrial orders are not required unless specifically directed by the court in a particular case.

B. Not later than two weeks prior to the commencement of the trial the parties shall provide to each other and to the court the following:

i. A list of any fact and expert witnesses whose testimony is to be offered at trial, indicating whether the witnesses will testify in person or by deposition.

ii. A list of exhibits to be offered at trial. All exhibits shall be pre-marked and shall be made available to opposing counsel for inspection and copying at reasonable times upon request.

iii. Only listed witnesses will be permitted to testify and only listed exhibits will be admitted in evidence except when prompt notice has been given and good cause shown.